cree for divorce whereby his wife became entitled to one-third of his property, does not abate the appeal. It survives to his heirs, and they may prosecute the cause in order to determine whether the divorce was rightfully granted and to settle conflicting property rights between them and the appellee.

Cities—Improvements in Streets—Discrimination.—Larned v. *City of Syracuse et al.*, 44 N. Y. Sup. 857. Where a petition for the pavement of a street prayed that the materials be purchased from a certain firm and the city council passed a resolution granting the petition the entire proceedings are void as preventing free competition.

Action by County to Recover Land Limitation—Adverse Possession.—Johnston v. *Llano County*, 39 S. W. Rep. 995 (Texas). Although the statute of limitation does not run against a county, as a subdivision of the State, as to any "road, street, side-walk, or grounds," yet the right of the county to recover lands not acquired or used for public purposes may be barred.

MISCELLANEOUS.

Navigable Waters—Control by the United States—Incidental Damage—Compensation—Constitutional Law.—Gibson v. *U. S.*, 17 Sup. Ct. Rep. 578. In accordance with United States River and Harbor Acts, a dike was built at a point in the Ohio River off Neville Island, nine miles west of Pittsburg, for the purpose of concentrating the water-flow in the main channel. The change of flow which followed this improvement, prevented the access of boats to the landing place of the plaintiff, a lower riparian owner, except at high stages of water in the Spring and Fall. The obstruction greatly reduced the value of the plaintiff's land and he petitioned the Court of Claims for the recovery of damages. The Supreme Court upholds the Court of Claims (29 Ct. Cl. 18) in finding the claimant not entitled to recover, there not being in this case a taking of private property for public use, without compensation, but the injury being a mere incidental consequence of the lawful exercise of Governmental power.

Negligence—Proximate Cause—Contributory Negligence—Assisting Person in Danger.—Saun v. *H. W. Johns Manf. Co.*, 44 N. Y. Sup. 641. Plaintiff's intestate, a workman in defendant's factory, had been directed to repair the pipes of a certain felt-washing machine; after so doing he and another workman made several unsuccessful attempts to put a belt upon the machine, when a third workman volunteered to assist them by holding the belt so

as to relieve it from the friction of the shaft from which it hung and which was revolving at full speed. In so doing the belt slipped and caught the volunteer workman in a sort of loop which carried him around the shaft. Deceased seeing the workman in this perilous position succeeded in rescuing him from it, but in the attempt was himself caught in the belt and whirled over the shaft, sustaining thereby injuries from which he died. Held, that as plaintiff had not been directed to adjust it, the condition of the belt was not the proximate cause of the injury, and although it is not contributory negligence to attempt to rescue a person in peril, no matter whether it was the result of the person's own negligence (*Eckert* v. *Railroad Co.*, 43 N. Y. 502; *Spooner* v. *Railroad Co.*, 115 N. Y. 22, 21 N. E. 696; *Gibney* v. *State*, 137 N. Y. 1, 33 N. E. 142), yet no action would lie against defendant in this case, as its negligence was not the proximate cause of intestate's death.

Attorney and Client—Liability for Negligence—Overlooking First Lien.—Larrall v. *Groman*, 37 Atl. Rep. 98 (Penn.). An attorney searching the record in regard to certain property, held liable to his client for overlooking prior liens, wherein client loaned money on a mortgage of said property on the strength of his stating there were no prior liens.

Gift to Infant—Engagement Ring—Conditions of Marriage—Breach.—Stramberg v. *Rubenstein*, 44 N. Y. Sup. 405. A man cannot recover during the infancy of his former fiancée an engagement ring given her, on the ground that she had broken the engagement.

Monopolies—Combination in Restraint of Trade—Promissory Note.—Milwaukee Masons and Builders Ass'n v. *Niezerowski*, 70 N. W. Rep. 166 (Wis.). The private by-laws of a masons' and builders' association, which consists of most of the mason contractors in a city, are void as in restraint of trade, when they require the members to pay six per cent on all contracts performed by them, and that all bids for work must be first submitted to the association, and six per cent must be added by the lowest bidder to his price before he submits it to the owner or his architect. A note given by a contractor to such an association, of which he was a member, for the percentage due under the by-laws, on a contract for building, is invalid and will not be enforced.

Criminal Law—False Pretenses.—Jules v. *State*, 36 Atl. Rep. 1027 (Md.). A false representation by one that he has superna-